

FCC MAIL SECTION

APR 4 3 09 PM '96

Before the
Federal Communications Commission DA 96-463
Washington, D.C. 20554

DISP
In the Matter of) MM Docket No. 96-74
)
Red River Broadcasting, Inc.)
)
Order to Show Cause Why the)
License for Station KMOA(AM))
Kensett, Arkansas Should)
Not be Revoked)

ORDER TO SHOW CAUSE
AND
HEARING DESIGNATION ORDER

Adopted: March 28, 1996

Released: April 1, 1996

By the Assistant Chief, Audio Services Division:

1. The Assistant Chief, Audio Services Division, Mass Media Bureau, has before him for consideration: (a) a license held by Red River Broadcasting, Inc. ("Red River") for Kensett, Arkansas; and (b) the results of an investigation into the station's silent status.¹

2. The Commission's records indicate that KMOA(AM) has been off the air since December 30, 1993 when the licensee informed the FCC that the station went off the air "because of equipment failure."² No letter was filed informing the Commission that these failures were remedied, and that the station resumed broadcast operations. KMOA(AM) has thus been off the air for over two years and is presently not authorized to remain silent. Consequently, Red River is in apparent violation of Sections 73.1740(a)(4)³ and 73.1750⁴ of

¹The Mass Media Bureau has been delegated authority to issue and release Show Cause Orders in cases involving silent broadcast stations. See Debrine Communications, Inc., 7 FCC Rcd 2118 (1992).

²KMOA(AM)'s license expires on June 1, 1997. (File No. BR-890630UK, granted July 25, 1991).

³Section 73.1740(a)(4) provides that:

"In the event that causes beyond the control of a licensee make it impossible to adhere to the operating

the Commission's Rules.

3. Accordingly, IT IS ORDERED, That pursuant to Sections 312(a) (3) and (4) of the Communications Act of 1934, as amended, Red River Broadcasting, Inc. IS DIRECTED TO SHOW CAUSE why the license for KMOA(AM) should not be REVOKED, at a hearing to be held at a time and location specified in a subsequent Order, upon the following issues:

- (1) To determine whether Red River Broadcasting, Inc. has the capability and intent to expeditiously resume the broadcast operations of KMOA(AM), consistent with the Commission's Rules.
- (2) To determine whether Red River Broadcasting, Inc. has violated Sections 73.1740 and/or 73.1750 of the Commission's Rules.
- (3) To determine, in light of the evidence adduced pursuant to the foregoing issues, whether Red River Broadcasting, Inc. is

schedule of this section or to continue operating, the station may limit or discontinue operation for a period of not more than 30 days without further authority from the FCC. Notification must be sent to the FCC in Washington, D.C. not later than the 10th day of limited or discontinued operation. During such period, the licensee shall continue to adhere to the requirements in the station license pertaining to the lighting of antenna structures. In the event normal operation is restored prior to the expiration of the 30-day period, the licensee will so notify the FCC of this date. If the causes beyond the control of the licensee make it impossible to comply within the allowed period, informal written request shall be made to the FCC no later than the 30th day for such additional time as may be deemed necessary."

⁴Section 73.1750 provides:

"The licensee of each station shall notify the FCC in Washington, D.C. of permanent discontinuance of operation at least two days before operation is discontinued. Immediately after discontinuance of operation, the licensee shall forward the station license and other instruments of authorization to the FCC, Washington, D.C. for cancellation."

qualified to be and remain the licensee of KMOA(AM).

4. IT IS FURTHER ORDERED, That, pursuant to Section 312(d) of the Communications Act of 1934, as amended, both the BURDEN OF PROCEEDING with the introduction of evidence and the BURDEN OF PROOF with respect to the issues specified above shall be upon the MASS MEDIA BUREAU.

5. IT IS FURTHER ORDERED, That, to avail itself of the opportunity to be heard, the licensee, pursuant to Section 1.91(c) of the Commission's Rules, SHALL FILE with the Commission within thirty (30) days of the receipt of this Order a WRITTEN APPEARANCE stating that it will appear at the hearing and present evidence on the matters specified in the Order. If the licensee fails to file a written appearance within the time specified, or within thirty (30) days of receipt of this Order the licensee files a written statement expressly waiving its right to a hearing, the licensee's right to a hearing SHALL BE DEEMED TO BE WAIVED. In the event the right to a hearing is waived, the Presiding Judge, or the Chief, Administrative Law Judge if no Presiding Judge has been designated, SHALL TERMINATE the hearing proceeding and CERTIFY this case to the Commission in the regular course of business, and an appropriate Order shall be entered.⁵

6. IT IS FURTHER ORDERED, That, if it is determined that the hearing record does not warrant an Order revoking the license for KMOA(AM), Kensett, Arkansas, it shall be determined, pursuant to Section 503(b) of the Communications Act of 1934, as amended, whether an ORDER OF FORFEITURE shall be issued against the licensee in an amount not exceeding \$250,000.00 for the willful and/or repeated violation of Section 73.1740 and/or 73.1750 of the Commission's Rules.

7. IT IS FURTHER ORDERED, That this document constitutes a NOTICE OF APPARENT LIABILITY for willful and repeated violation of Section 73.1740 and/or 73.1750 of the Commission's Rules. The Commission has determined that in every case designated for hearing involving the potential revocation of a station license, it shall, as a matter of course, include a forfeiture notice so as to maintain the fullest possible flexibility of

⁵The Mass Media Bureau has been delegated authority to issue Revocation Orders in cases involving silent broadcast stations. See Radio Northwest Broadcasting Company, 4 FCC Rcd 596 n.3 (1989).

action. Since the practice of including such forfeiture notice is a routine procedure, such inclusion here should not be viewed in any manner as suggesting or otherwise indicating what the initial or final disposition of this proceeding shall be.

FEDERAL COMMUNICATIONS COMMISSION

Stuart B. Bedell
Assistant Chief, Audio Services Division
Mass Media Bureau